

HOUSE BILLS 2697 AND 2770
PRISON LITIGATION REFORM

PENNSYLVANIA PRISON WARDEN'S ASSOCIATION
HOUSE JUDICIARY COMMITTEE TESTIMONY
AUGUST 28, 1996

PRESENTED BY:

EDWARD SWEENEY, WARDEN
LEHIGH COUNTY PRISON
38 NORTH 4TH STREET
ALLENTOWN, PA 18102
(610) 820-3260

Good Morning.

I am Edward Sweeney, Warden of Lehigh County Prison and I am appearing before the Judiciary Committee today, on behalf of the Pennsylvania Prison Warden's Association.

I would like to thank Legislative Committee Chairman Gannon and Representative Clark for extending me the invitation to testify before this committee today in regard to House Bills Number 2697 and 2770, the State's version of Prison Litigation Reform.

The Pennsylvania Prison Warden's Association is an organization composed of Corrections Professionals currently or formerly in various administrative capacities, including but not limited to Wardens of Federal, State, and County prisons throughout the Commonwealth of Pennsylvania. The membership of the PPWA has direct interest and substantial expertise in providing recommendations to address the growing problem of inmate litigations, and we support House Bill 2697 and House Bill 2770. Jails, prisons, and judicial systems throughout the State of Pennsylvania are increasingly besieged by inmate litigation, much of which is frivolous. Record inmate population growth across the State has exacerbated the litigation trend, and while we recognize some inmate litigation is meritorious and deserves close judicial attention, it becomes lost in the flood of frivolous pleadings.

There are those who claim limiting inmate litigations by any measure will result in regressive wide spread unconstitutional practices. We disagree. Adherence to law is fundamental to professional Correctional practice. Our adoption of this premise is clear where by most prison administrators have developed independent mission statements establishing the primary mission for our respective staff, around which all facility policies and procedures will be promulgated. The primary tenet common to all mission statements I have ever heard regarding prison management is, to run a constitutionally sound prison operation. Knowledgeable and competent jail administrators as well as a professional and well-trained staff are the primary components to attain this mission, not the mere presence or fear of inmate litigations. Nationally recognized professional correctional organizations have promulgated volumes of prison standards, or benchmarks, against which prison operations can always be measured. Additionally, in Pennsylvania, the State Department of Corrections performs semi annual inspections of all county or state prison institutions insuring compliance with law.

Some will argue the implementation of a filing fee will restrict the filing of legitimate claims. Again, we disagree. The levying of a mandatory filing fee on inmate initiated litigations forces the effected inmate to assess the merits of his claim and the seriousness of the alleged civil rights violation prior to

submission. Who better than the effected inmate can make the initial determination regarding the merits of the claim. Absent of any filing fee, the inmate will simply file the necessary forms and let Judicial staff sort it out at the expense of the tax payer.

The next portion of my testimony will relate directly to my personal experiences as a Warden of a 1,100 bed county jail facility. Although the specific details may be unique the scenario's are all too common.

Over the past five years, I have seen a significant increase in the number of prisoner initiated civil rights litigations filed in State and Federal Courts. As a prison administrator, I can see first hand the overall cost associated with preparing a legal defense for those cases which are bound over for trial.

Nothing is more frustrating than being forced to direct costly human resources to spend hours upon hours of time preparing documents, locating records and making hundreds of copies in order to refute a frivolous inmate claim.

Even after hearing the Judge state "the case is dismissed with prejudice," I feel no sense of victory or accomplishment due to the costly investment of resources which could have been utilized elsewhere.

Some inmates which I like to refer to as "recreational filers" have personally filed dozens of litigations against prison staff as sport or as a form of harassment. At no cost to the inmate, if the case was bound over for trial he

was taken for a ride to the Courthouse where he could personally call numerous staff members to the witness stand.

One particular inmate who was prone to litigate frivolous issues, filed nine separate 1983 civil rights actions over a two year period. Although all of the litigations were without any real merit, he improved his written and verbal presentations with each court appearance. Five of his eight filings required a formal court hearing. He was being educated if you will by the Federal Courts by serving pro se during repeated civil proceedings. The cost to the tax payer for this convicted armed robber's civil education was no less than:

o	80 hours of County Solicitor time	\$ 4,000
o	120 hours of Uniformed Staff overtime for court testimony & transport.	\$ 2,400
o	60 hours of prison staff time-preparation	\$ 1,200
	Total	\$ 7,600

Note: This cost factor does not take into consideration any of the Judicial costs associated with the hearings.

In regards to the relief portion of this proposed bill, I present the following historical account in very brief terms. Effective January 1, 1990, we entered into a Consent Decree in order to resolve an inmate litigation filed in 1986. Six and a half years later, we are still involved in legal arguments regarding the scope and duration of this agreement. The pending house bill and the

already enacted Federal PLRA will serve well to regulate any future Court imposed relief or agreed upon Consent Decrees to avoid such an expensive perpetual process.

I will close my prepared testimony on what I believe to be common ground for all interested parties. Not all inmate litigations filed are frivolous.

Inmates should retain the right to submit civil rights violations to the Courts for Judicial review. The current system in place, however, is broke and we need to fix it. House Bills 2697 and 2770 preserve the inmates right to file suit while applying reasonable and necessary controls to enable effective prison management.

On behalf of the PPWA, I thank you for this opportunity to be heard.